

CHEMEX MODULAR, LLC
Services Order General Terms and Conditions

1. Definitions.

- (a) **“Claim”** or **“Claims”** means any and all judgments, claims, causes of action, demands, lawsuits, suits, proceedings, governmental investigations or audits, losses, assessments, fines, penalties, administrative orders, obligations, costs, expenses, liabilities and damages (whether actual or consequential), including interest, penalties, reasonable attorney’s fees, disbursements and costs of investigations, deficiencies, levies, duties and imposts.
- (b) **“Company”** means the party with whom Contractor is contracting pursuant to this Services Order.
- (c) **“Contractor”** means Chemex Modular, LLC.
- (d) **“Contract Price”** has the meaning set forth on the face of this Services Order.
- (e) **“Effective Date”** means the date this Service Order is entered into by the Parties.
- (f) **“Event of Force Majeure”** means any event or circumstance that directly or indirectly prevents a Party from performing an obligation under this Agreement and is beyond the reasonable control of, and occurs without the negligence of, the Party obligated to perform the relevant obligation.
- (g) **“Material Default”** means: (i) the failure of a Party to pay the other Party any material amount of money payable by that Party, except a failure related to a bona fide business dispute about the amount of such payment or the liability for such payment, not accompanied by a general failure by that Party to pay the amounts it owes under this Services Order; or (ii) the general, continuing failure of a Party to perform its material obligations under this Services Order, except when excused by an Event of Force Majeure or by some other provision of this Services Order, and except a failure related to a bona fide dispute about any obligation.
- (h) **“Party”** means Company or Contractor, individually, and **“Parties”** means Company and Contractor, collectively.
- (i) **“Services”** means solely the services described in Exhibit A to this Services Order.

- (j) **“Services Order”** means this Services Order (October 2013) between Contractor and Company, including these Services Order General Terms and Conditions, which are incorporated into and made a part of this Services Order.
- (k) **“U.S.”** means United States of America.
2. **Applicability of Terms.** These Services Order General Terms and Conditions constitute a part of and apply to this Services Order, except to the extent that the face of this Services Order expressly provides otherwise.
3. **Resources.** Contractor shall furnish all resources necessary for the proper and complete performance, provision and acceptance of the Services. All materials, supplies, equipment and other items furnished and incorporated by Contractor into the Services shall be new unless otherwise specified on the face of this Service Order.
4. **Inspections.** Company may from time to time schedule an inspection of all or any part of the performance or provision of the Services.
5. **Governmental Authorizations.** Contractor, at its sole cost and expense, and in its name, shall obtain and maintain all applicable governmental authorizations necessary to perform and provide the Services hereunder.
6. **Personnel.** Contractor may employ or contract with and supervise an independent contractor or any such persons as Contractor deems necessary and appropriate in order to permit Contractor to perform its duties and responsibilities hereunder. In the performance of its obligations hereunder, Contractor may, but shall not be obligated to, engage the services of agents and subcontractors to perform such parts of the Services which cannot be legally performed by Contractor’s employees in a commercially reasonable manner.
7. **Compensation.** The compensation to be paid by Company to Contractor for the Services is the Contract Price listed on the face of this Services Order, in U.S. Dollars.
8. **Payment Terms; Overdue Payments; Right to Stop Work.**
- (a) **Payment Terms.** All payments must be made in immediately available funds in U.S. Dollars per the terms on the face of this Services Order. Contractor may invoice parts of this Services Order separately.
- (b) **Interest on Late Payments.** If Company fails to pay to Contractor any sum or sums when due under this Services Order, Company shall pay the said sum or sums with interest calculated at the lower of: (i) the maximum

rate allowable under applicable law; or (ii) a simple interest rate per annum (no compounding) equal to eighteen percent (18.00 %).

- (c) **Right to Stop Work.** If any overdue payment is not received by Contractor within seven (7) days from the due date thereof, in addition to any other rights Contractor may have, Contractor shall have the right to stop work hereunder until payment of the full amount owing to Contractor (including interest) has been received by Contractor.

9. Taxes.

- (a) **Taxes.** Company shall be responsible for and shall pay all taxes which may be assessed or levied directly or indirectly by any governmental authority relating to the Services, except for taxes based on Contractor's net income.
- (b) **Value Added Taxes.** The Contract Price shall be exclusive of any value added tax which, if applicable, shall be shown separately on Contractor's invoice and is payable by Company. Contractor shall make reasonable efforts to minimize its liability to pay and to recover any value added Tax which may be assessed on the Services.

10. Liens and Patent Infringement.

- (a) **Liens.** Contractor shall indemnify, defend and hold Company harmless from all liens and other encumbrances against Company's property on account of debts or Claims alleged to be due from Contractor to any person, resulting from Contractor's performance of Services hereunder, and on behalf of Company and in Company's name, shall defend at its own expense any Claim in connection therewith.
- (b) **Patent Infringement.** Contractor shall indemnify, defend and hold Company harmless from and against any and all Claims of whatsoever kind asserted by or arising in favor of any person for or as a result of infringement of any patent(s) or copyright(s), or misappropriation or misuse of trade secret(s) or other confidential information, based on or related to Contractor's use or application of any equipment, article of manufacture, machine, computer software, or process; provided that Company shall have the right at its discretion to be represented by its own attorney and to participate in any action in which Company is named as a defendant. Should Contractor be prevented from performing hereunder by reason of legal proceedings based upon such Claim of infringement, Company shall be relieved of its obligations to make payment for such Services not performed as a result thereof.

11. **Force Majeure.** In the event either Party is rendered unable, wholly or in part, by an Event of Force Majeure, to carry out its obligations under this Services Order, other than to make money payments when due, such Party shall give Notice and full particulars of such Event of Force Majeure to the other Party within a reasonable time after the occurrence of the cause relied on, and the obligations of the Party giving such Notice, so far as they are affected by such Event of Force Majeure, shall be suspended during the continuance of any inability so caused but for no longer period, and such cause shall as far as possible be remedied with all reasonable dispatch. Notwithstanding the foregoing, it is understood that the settlement of strikes or lockouts shall be entirely within the discretion of the Party having the difficulty. The above requirement that any Event of Force Majeure shall be remedied with all reasonable dispatch shall not require the settlement of strikes or lockouts by acceding to the demands of the opposing party when such course is inadvisable in the discretion of the Party having the difficulty.

12. **Term and Termination.**

(a) **Term.** This Services Order shall commence on the Effective Date, and, unless terminated pursuant to Section 12. (b) hereof, shall terminate upon completion of the Services by Contractor.

(b) **Termination.** Notwithstanding Section 12 (a) hereof, each Party shall have the right to terminate this Services Order: (i) upon the bankruptcy of the other Party; or (ii) at any time on thirty (30) days' prior notice to the other Party if (A) such other Party is in Material Default of any of its obligations under this Service Order and the injured Party gives written notice of such Material Default to the defaulting Party, which written notice shall set forth in reasonable detail the facts and circumstances of such Material Default; and (B) the defaulting Party fails to cure such Material Default within thirty (30) days, or, for a Material Default not reasonably susceptible to cure within that period, to undertake to cure such Material Default and thereafter to diligently continue such efforts until the Material Default is cured.

(c) **Effect of Termination.** Upon termination, neither Party shall have any further obligations to the other Party under this Services Order, except that the liabilities accrued through the date of termination and the obligations which by their terms survive termination, including, without limitation, the confidentiality, indemnification, hold harmless, and records and audit obligations of this Services Order, shall survive termination.

13. **Limited Warranty; Liability of Contractor.**

(a) **Limited Warranty.** Contractor warrants only that the Services to be performed and provided by Contractor hereunder shall be performed and

provided in an efficient and prudent manner and in all respects in accordance with all applicable laws.

- (b) **Disclaimer.** The only warranty made by Contractor is expressly stated in Section 13. (a) hereof. Any other statement in this Services Order shall not be deemed to constitute a warranty. THE WARRANTIES SET FORTH IN SECTION 13. (a) HEREOF ARE EXCLUSIVE AND ARE IN LIEU OF ANY AND ALL OTHER WARRANTIES FROM CONTRACTOR, WHETHER STATUTORY, EXPRESS OR IMPLIED (INCLUDING, WITHOUT LIMITATION, ALL WARRANTIES OF QUALITY, PERFORMANCE, MERCHANTABILITY, AND FITNESS FOR A PARTICULAR PURPOSE). THE PROVISIONS OF THIS SECTION HAVE BEEN NEGOTIATED BY THE PARTIES AFTER DUE CONSIDERATION AND ARE INTENDED TO BE A COMPLETE EXCLUSION AND NEGATION OF ANY REPRESENTATIONS AND WARRANTIES OF CONTRACTOR, STATUTORY, EXPRESS OR IMPLIED, WITH RESPECT TO THE SERVICES, THAT MAY ARISE PURSUANT TO ANY LAW NOW OR HERINAFTER IN EFFECT, OR OTHERWISE, EXCEPT AS EXPRESSLY STATED HEREIN.
- (c) **Liability of Contractor.** In the event Contractor is in breach of any of its obligations under this Services Order and such breach results in a deficiency to meet the limited warranty set forth in Section 13. (a) hereof with respect to any of the Services, then Contractor shall expeditiously re-perform the deficient Services the extent necessary to overcome the deficiency. All the costs of such rework within the scope of Services to remedy such deficiency shall be borne by Contractor, subject to Section 13. hereof.
- (d) **Remedies/Limitation of Liability.** THE REMEDIES PROVIDED FOR IN THIS SECTION ARE COMPANY'S SOLE REMEDIES FOR ANY FAILURE OF CONTRACTOR TO COMPLY WITH ITS OBLIGATIONS. Correction of any non-conformity in the manner and period of time provided in this Section shall constitute fulfillment of all liabilities of Contractor whether the Claims of Company are based on contract, in tort (including negligence and strict liability), in warranty or otherwise with respect to or arising out of Services performed and provided hereunder.
14. **Independent Contractor.** Contractor shall be an independent contractor with respect to its relationship with Company under this Services Order. By virtue of entering into this Services Order, or performing Services hereunder, Contractor shall not be deemed to be a partner, agent, employee or attorney-in-fact of Company. Company shall not in any manner represent that it or its employees or

agents are employees or agents of Contractor and Company shall have no right, power or authority to incur or create any obligations for or on behalf of Contractor. Company hereby expressly agrees that it shall not register or attempt to register this Services Order before any governmental agencies or authorities for any purpose whatsoever where such registration would grant Company any rights other than what is expressly provided for under this Services Order. Contractor shall be fully responsible for and shall have exclusive direction and control of its employees and shall control the manner and method of performing the Services hereunder. Any provision of this Services Order whereby Company or any of its agents or employees would otherwise have the right to direct Contractor or its agents or employees as to the manner of performing the Services shall be interpreted as meaning that Contractor should follow the directives of Company with respect to the results to be achieved but not in the means whereby the work is to be accomplished which means shall be determined by the Contractor.

15. Safety.

(a) **Safety.** Contractor shall familiarize itself with any location where the Services are to be performed and the hazards which might be encountered and shall take all precautions necessary to eliminate or minimize these and protect the health and safety of its own personnel and any other persons who are at any time directly or indirectly affected by the performance of the Services.

(b) **Company Safety Rules.** Contractor, in addition to complying fully and at all times with its obligations under applicable law, shall observe, follow and ensure that its personnel shall observe and follow all relevant Company health and safety rules, and such other rules, regulations and requirements provided to Contractor by Company, when performing Services on Company's premises, and all applicable guides, codes, and recommendations issued or made by any professional, trade or governmental authorities or other official or responsible organizations relating to health and safety at work at the place where the Services are rendered.

16. Insurance. Contractor shall at all times during the term of this Services Order procure and maintain the following insurance: (i) workers' compensation insurance or similar insurance, including all such insurance as may be required by all State and Federal workers' compensation acts and such other acts as may be applicable to the Services performed under this Services Order; (ii) employers' liability insurance in the amount required by law or One Million Dollars (\$1,000,000.00) per occurrence, whichever is greater; (iii) commercial general liability insurance on an occurrence form basis covering liabilities for death and personal injury and liabilities for loss or damage to property with a combined single limit of not less than One Million Dollars (\$1,000,000.00) per occurrence, which insurance must cover all operations of Contractor related to this Services

Order; and (iv) business vehicle liability insurance covering liabilities for death of or injury to any one person and liabilities for loss of or damage to property resulting from any one accident with amounts required by law.

17. Indemnification.

(a) **Indemnification.** FROM AND AFTER THE DATE HEREOF, EACH PARTY SHALL DEFEND, INDEMNIFY AND HOLD HARMLESS THE OTHER, ITS DIRECTORS, OFFICERS, EMPLOYEES, AND AGENTS, FROM, AGAINST AND IN RESPECT OF, ANY AND ALL CLAIMS, WHETHER FOR PERSONAL INJURY, DEATH, ILLNESS, PROPERTY DAMAGE, OR OTHERWISE, WHICH OCCUR AS A RESULT OF THAT PARTY'S NEGLIGENCE, GROSS NEGLIGENCE, WILLFUL MISCONDUCT, IT BEING UNDERSTOOD AND AGREED THAT EACH PARTY SHALL BE LIABLE ONLY TO THE EXTENT OF ITS OWN NEGLIGENCE, GROSS NEGLIGENCE OR WILLFUL MISCONDUCT AND NEITHER PARTY SHALL BE LIABLE FOR THE NEGLIGENCE, GROSS NEGLIGENCE OR WILLFUL MISCONDUCT OF THE OTHER PARTY.

(b) **Consequential Damages.** NOTWITHSTANDING ANYTHING IN THIS SERVICES ORDER TO THE CONTRARY, IN NO EVENT SHALL EITHER PARTY BE LIABLE TO THE OTHER FOR ANY EXEMPLARY, INDIRECT, INCIDENTAL, PUNITIVE, CONSEQUENTIAL OR SPECIAL DAMAGES RESULTING FROM THIS SERVICES ORDER, INCLUDING, WITHOUT LIMITATION, LOSS OF PROFITS OR BUSINESS INTERRUPTION, HOWEVER THEY MAY BE CAUSED.

18. Governing Law/Submission to Jurisdiction. THIS SERVICES ORDER SHALL BE CONSTRUED IN ACCORDANCE WITH LAWS GOVERNING CONTRACTS MADE AND TO BE PERFORMED IN THE STATE OF TEXAS, U.S. COMPANY HEREBY CONSENTS TO THE JURISDICTION OF ANY LOCAL, STATE OR FEDERAL COURT LOCATED WITHIN THE STATE OF TEXAS AND WAIVES ANY OBJECTION WHICH COMPANY MAY HAVE BASED ON IMPROPER VENUE OR FORUM NON CONVENIENCE TO THE CONDUCT OF ANY PROCEEDING IN ANY SUCH COURT.

19. Confidentiality.

(a) **Proprietary Technical Information.** For a period from the Effective Date through the tenth (10th) anniversary of this Services Order, each receiving Party shall treat as confidential and shall not, without the disclosing Party's prior written consent, divulge to any third person or, except to the extent necessary for performance hereunder, make any use of any proprietary technical information owned or supplied by the disclosing

Party or representatives of the disclosing Party which is disclosed or made available to the receiving Party by or on behalf of the disclosing Party.

- (b) **Other Information.** For a period from the Effective Date through the third (3rd) anniversary of this Services Order, each receiving Party shall treat as confidential and shall not, without the disclosing Party's prior written consent, divulge to any third person or, except to the extent necessary for performance hereunder, make any use of any other information about or shared in conjunction with the performance hereunder or the operation to which that performance pertains.
- (c) **Duty to Inform Others.** Each Party shall inform each of its officers, employees, agents and subcontractors who receives any of the above-described information of the provisions of this Section, and, if they have not previously entered into a separate agreement with such Party dealing with the confidentiality of such information, such Party shall require them to agree in writing to be bound by the provisions of this Section in the same manner as such Party is bound hereunder.
- (d) **Exclusions.** Any information which was in a receiving Party's possession prior to its disclosure by or on behalf of a disclosing Party to such receiving Party, or which is or shall become part of the public knowledge or literature from a source other than a receiving Party, either directly or indirectly, shall not be subject to the provisions of this Article. Information which shall become available to a Party legitimately from a source other than the other Party shall be released from the provisions of this Section to the extent necessary to permit such use and disclosures as are authorized by such source.

20. **Records and Audit.**

- (a) **Records.** At all times while this Services Order is in effect and for at least five (5) years following its expiration or termination, Company shall keep and maintain its books, records and accounts in reasonable detail to accurately, completely and fairly reflect its activities and transactions hereunder, including the recipient and nature of every payment or expenditure in connection with Company's activities hereunder. Company shall maintain its books, records and accounts in such form as to facilitate their inspection and auditing as provided for in this Section 20. (b) below.
- (b) **Audit.** Contractor or its designee shall have the right at all reasonable times during normal business hours to inspect, audit, and copy the books, records and accounts, including electronic communications and records, of Company which are related in any way to Company's performance under this Services Order. Company shall make such books, records, and

accounts immediately available for inspection, auditing, and copying at the request of Contractor. This Services Order may be terminated by Contractor immediately in the event Company refuses to cooperate with Contractor's rights to inspect, audit and copy under this Services Order.

21. **Assignment.** Company shall not, without Contractor's prior written consent, assign this Services Order or any of its rights or obligations under this Services Order. Subject to the foregoing, this Services Order shall be binding upon, and shall inure to the benefit of, the successors and assigns of the Parties.
22. **Severability.** If any provision of this Services Order or the application thereof is found to be invalid, illegal or unenforceable, to any extent and for any reason, it shall be adjusted rather than voided, if possible, in order to achieve the intent of the parties. In any event, the remainder of this Services Order and the application of such remainder shall not be affected thereby and shall be enforced to the greatest extent permitted by law.
23. **Non-Waiver.** Contractor shall not be deemed to have waived any right, power, privilege, or remedy unless such waiver is in writing and duly executed by it. No failure to exercise, delay in exercising, or course of dealing with respect to, any right, power, privilege, or remedy shall operate as a waiver thereof by Contractor or of any other right, power, privilege, or remedy. No exercise or partial exercise of any right, power, privilege, or remedy shall preclude any other or further exercise thereof by Contractor or the exercise of any other right, power, privilege, or remedy by Contractor.
24. **Entire Agreement.** This Services Order constitutes the entire agreement between the Parties relating to the subject matter hereof, and it supersedes all prior and contemporaneous agreements, understandings, negotiations and discussions, whether oral or written, between the Parties relating to the subject matter hereof, and there are no warranties, representations, or other agreements between the Parties in connection with the subject matter hereof except as specifically set forth herein. General or special conditions of any of Company's price lists, invoices, tickets, receipts, or other documents presented to Contractor relating to this Services Order or the Services hereunder are null and void, regardless of whether signed by an employee of Contractor.
25. **Amendments.** This Services Order shall not be modified or amended, in whole or in part, except by a supplemental agreement signed by both Parties.
26. **Counterparts; Multiple Originals.** This Services Order may be executed in any number of counterparts, all of which together shall constitute one agreement binding on each of the Parties. Each Party may sign any number of copies of this Services Order. Each signed copy shall be an original, but all of them together shall represent the same agreement.

27. **Headings.** The Section headings used in this Services Order have been inserted only for convenience to facilitate reference and shall not be determinative in construing the meaning, effect or application of any Section, or provision hereof.
28. **International Services.** If Company is a foreign person and/or the Services are to be provided outside the continental U.S., this Section shall also apply to and be a part of this Services Order:
- (a) **Commercial Practices.** Company shall not engage in any commercial practices which violate the laws of the U.S. or the laws of any government or any political subdivision thereof. Company shall not make any payments or engage in any acts which would be contrary to applicable law, including but not limited to any applicable international agreements relating to bribery, such as the United Nations Convention against Corruption, the Organization for Economic Cooperation and Development (OECD) Convention on Combating Bribery of Foreign Public Officials in International Business Transactions, the Organization of American States (OAS) Inter-American Convention Against Corruption, the Council of Europe (COE) Criminal Law Convention on Corruption, the laws of the U.S. (such as the Foreign Corrupt Practices Act), and the laws of any country in which Company operates.
- (b) **Compliance with Laws.** Company shall comply with all applicable laws of any country, state, province or locality in which Company operates. Without limiting the generality of the foregoing, Company shall comply with all applicable domestic and foreign anti-bribery and anti-corruption laws, and other laws governing improper payments, in connection with the performance of this Services Order, including but not limited to, the substantive requirements of the U.S. Foreign Corrupt Practices Act, and similar laws in other jurisdictions. Company shall not act in a way that would cause Contractor to be in violation of the U.S. Foreign Corrupt Practices Act or other applicable foreign or domestic anti-bribery or anti-corruption laws.
- (c) **Improper Payments.** Company shall not pay, offer, promise to pay, or authorize the payment or provision directly or indirectly of any money or anything of value to any government official (as hereinafter defined) or employee or to any political party, party official, political candidate, or official of a public international organization for the purpose of: (i) securing an improper advantage; (ii) obtaining, retaining or directing business to any person; or (iii) inducing or rewarding any favorable action by the recipient in any commercial transaction or in any governmental matter (“Improper Payments”). For purposes of this Services Order, the term “government official” shall mean and include any official or employee of national, local or provincial or state government department, agency, or instrumentality, as well as an official in the judicial, legislative,

or military, anyone acting in an official capacity for any government, or any immediate family member of such persons. Any above-described Improper Payments by Company shall render this Services Order null and void. Company shall promptly report to Contractor any credible evidence of Improper Payment activity in connection with activities carried out under this Services Order.

- (d) **Maintenance of Books and Records.** At all times while this Services Order is in effect and for at least five (5) years following its expiration or termination, Company shall keep and maintain its books, records and accounts in reasonable detail to accurately, completely and fairly reflect its activities and transactions hereunder. Company shall maintain its books, records and accounts in such form as to facilitate their inspection and auditing as provided for in this Article.

- (e) **Audit Rights.** Contactor or its designee shall have the right at all reasonable times during business hours to inspect, audit, and copy the books, records and accounts, including electronic communications and records, of Company which are related in any way to Company's performance under this Services Order. Company shall make such books, records, and accounts immediately available for inspection, auditing, and copying at the request of Contractor. Company shall provide to Contractor or its designee any additional information reasonably required for Contractor: (i) to understand the materials contained in any such books, records, and accounts; (ii) to trace any payments or expenditures in any way related to the procurement of orders for Contractor's Services; and (iii) to ensure Company has complied fully with the terms of this Services Order and with the U.S. Foreign Corrupt Practices Act, and any other applicable foreign and domestic anti-bribery and anti-corruption laws and other applicable laws and regulations. Company shall cooperate fully with any such audit and with any request from Contractor to take recommended remedial actions to ensure compliance with the U.S. Foreign Corrupt Practices Act and the principles of Contractor's policies relating to business practices. This Services Order may be terminated by Contractor immediately in the event that Company refuses to cooperate with Contractor's rights to inspect, audit and copy under Section.

- (f) **Actions or Inactions by Contractor.** In no event shall Contractor be obligated under this Services Order to take any action or omit to take any action that Contractor reasonably believes would cause it to be in violation of any U.S. laws, including without limitation the U.S. Foreign Corrupt Practices Act.

**** END OF SERVICES ORDER GENERAL TERMS AND CONDITIONS ****